

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

CRJ No. 1-CK-00-031

U.S. District Judge Rar

FILED  
HARRISBURG

DEC 21 2000

MARY E D'ANDREA, CLERK  
Per *MA*

DEPUTY CLERK

ARD JAE,  
Plaintiff,

2. KYLER, et al.,  
Defendants

DEPUTY CLERK

IS REPLY BRIEF TO DEFENDANT'S MEMORANDUM TO PLAINTIFF'S MOTION TO COMPULSORY DISMISSAL OF PLAINTIFF JOHN RICHARD J. PURSANT TO RULE 12(b)(6) OF THE FEDERAL RULES OF CIVIL PROCEDURE.

Plaintiff John Richard Doe, pursuant to this court's order, files his Plaintiff's Reply Brief and a memorandum in opposition to Plaintiff's motion to compel, here, the above-captioned Civil Action, & the above-captioned deposition.

TB Campbell, here, and  
 avers, deposes & says:-  
 1. On or about October 30, 2000, Defendants by  
 1. On or about September 26, 2000, Plaintiff's  
 1. On or about September 26, 2000, Plaintiff's  
 second request for production of documents upon Defendants' call  
 herein this case.  
 about October 30, 2000, Defendants by call  
 Plaintiff's second

2. on about October 30, 2000, Defendants by counsel herein this case filed the Defendants' objections to Plaintiffs' Second Request for Production of Documents, herein this case.

3. On about November 13, 2000, Plaintiff filed its Brief in Opposition to Defendants' Objections to Plaintiff's Second Request for Production of Documents, herein this case.

Plaintiff's.  
this on or about December 4, 2000, Defendants, by and  
their attorney, filed a Memorandum In Opposition to Plaintiff's Motion to  
in this case.

5. This is the Plaintiff's Reply Brief to Defendant's Memorandum in Opposition to Plaintiff's Motion to Compel Discovery. Plaintiff claims & argues that:

11 The last pleading filed by Plaintiff which

8/2, 2000. Thus by operation of Local Rule 26.4 discovery in this matter ended by the end of August, 2000. Plaintiff's second request for the production of documents which was not served until the end of September is clearly out of time!

Plaintiff avers & submits, that, while the above may very well be true, defendants fail to address/reply to plaintiff's contention, that: "Second of all, even if this court does not agree with the above argumentation/contention, this plaintiff can still order Defendants to produce documents requested by the plaintiff in his Plaintiff's Second Request for Production of Documents, herein this case because according to LR 1.3, of this Court. In the Court suspend these rules in individual cases by written order and Plaintiff avers & submits, that this Court should suspend LR 26.4 herein this case, and order Defendants to produce the requested documents to this Plaintiff because of the facts that Defendants have filed a Motion For Summary Judgment herein this case, and the Plaintiff needs such requested documents in order to enable him to adequately respond to and defend against the Defendant Motion For Summary Judgment herein this case, and because Fed. R. Civ. P. Rule 56(f) and the decision of the United States Supreme Court in Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 52 S.Ct. 2525 (1986), as well as other Federal case law on this issue, a federal court is not supposed to grant summary judgment if discovery has not been completed in the case, thus, the interests of fundamental fairness and fair and equitable justice require this court to suspend LR 26.4, herein this case, and order defendants to provide the requested documents to the plaintiff herein this case. . . . "2/ and because Defendants have so failed to address/reply to such, such must be deemed to be admitted/unopposed to by Defendants, under & pursuant to Fed. R. Civ. P. 36. I see Defendant's memorandum in opposition to Plaintiff's motion to compel herein this case at 3-4. I see Plaintiff's proposed order at 3-4.



~~CRV-8(d)~~ and LR 7. For this Court and the  
 should suspend LR 26-4, herein this case, and order  
 defendants to produce "all" of the Requested Documents  
 therein Plaintiff's Second Request For Production of  
 Documents, herein this to Plaintiff, for his inspection  
 and copying forthwith.

Defendants also claim & argue, that:

"Plaintiff's third Request asks defendants to  
 produce, Plaintiff's Prison Medical Records  
 from April 23, 2000 to May 1, 2000, to include,  
 Physician's orders, Dispensary Card, Progress  
 Notes and X-Ray Reports."

This Request is not reasonably calculated to  
 lead to the Discovery of admissible evidence.  
 Plaintiff has not challenged the confidentiality  
 of his medical care during this period. Instead  
 he focuses on whether he had access to his legal  
 materials in order to respond to a deadline in another  
 litigation. These documents are simply not  
 pertinent to the claim and defendants' objection  
 should be sustained. "3

However, Plaintiff avers & submits, that such is "not" the  
 his Request No. 3, is relevant to Paragraph No's 5, 6, 8 & 9  
 of this Supplemental Complaint herein this case, and to  
 him to count & dispute Paragraph No's 5, 7, 8 & 9, of  
 Defendants' Answer to Supplemental Complaint herein this  
 and thus such Documents/medical Records should be ordered pre  
 herein for this Plaintiff's inspection and copying.

(W) HERETOFORE, this Court should grant the Plaintiff's Br.  
 In Opposition to Defendants' objections to Plaintiff's Se  
 Request For Production of Documents, suspend LR 26-4,  
 this case and order Defendants to produce for inspection a  
 copying, herein "all" of the documents requested therein Plaintiff's  
 Second Request For Production of Documents herein this  
 Dated: 17th DECEMBER 2000:

2/30/01 Second Request For Production of Documents.

RESPECTFULLY SUBMITTED  
 MR. JOHN RICHARDSON  
 #301-210-1000

No. 1-CV-00-0315  
CERTIFICATE OF SERVICE

Plaintiff now hereby certifies that on this 18th day of December, 2000, I served a true & correct carbon copy of the within Plaintiff's Reply Brief Defendant's Memorandum In Opposition to Plaintiff's Motion To Compel, by 1st class mail, postage prepaid addressed to:

MR. MICHAEL L. HARVEY,  
SDAG  
Office of the Attorney General of Pennsylvania  
15th Floor, Strawberry Square  
Harrisburg, PA 17120

Dated/Executed on:  
18th DECEMBER 2000=  
At: Wynnesburg, Pennsylvania=

(S) John Richard Jr  
MR. JOHN RICHARD  
#BQ-3219  
SCE-Greenepm  
175 Progress Drive  
Waynesburg, PA 15370  
Plaintiff and PR Sec can